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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/509,961

10/04/2004

Ernst Topf

304-838

1013

30448

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07/08/2008

AKERMAN SENTERFITT

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EXAMINER

HOWELL, DANIEL W

ART UNIT

PAPER NUMBER

3726

MAIL DATE

DELIVERY MODE

07/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/509,961	<b>Applicant(s)</b> TOPF, ERNST	
	<b>Examiner</b> Daniel W. Howell	<b>Art Unit</b> 3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-26 is/are pending in the application.
- 4a) Of the above claim(s) 13, 14 and 26 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 and 18 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-12, 16, 20-22 and 25 is/are rejected.
- 7) ☒ Claim(s) 17, 19, 23-24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 6-8, 20, 22, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Wheetley (5006021). Drill bit 16 has a cutting zone with cutting edges/blades, 50, 51, two internal supply channels 62, 63, and two external flutes 59, 60. It is noted that claim 1 merely recites that the supply channels are “passing through the drilling tool.” Nothing in claim 1 states any particular length that these channels 62, 63, must be. Therefore, even as short as they are, channels 62, 63, are “passing through the drilling tool.” These channels “are associated” with two independent cooling lubricant supply devices. Note also that nothing in claims 1, 2, or 4 state that one supply channel must be connected with one and only one supply channel and that the other supply channel is connected to the other and only the other supply channel. Claim 1 merely recites that the supply channels “are associated with independent cooling lubricant devices.” Claim 4 merely recites that the pumps are connected to the channels. For the first supply device, nitrogen from source 36 is fed to valve 40, to union 42, through channels 20, 23, 32 in spindle drawbar, and 56, and finally to channels 62, 63. For the second supply device, lubricant from reservoir 43 flows through pump 44 to union 42, and through the same lines 20, 23, 32, 56. Sources 36 and 43 constitute independent supply devices. Regarding claim 2, pump 44 and valve 40 will provide the desired volume of flows. Note swivel/rotary duct 18.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 8-12, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Dell (4529340) in view of Barker et al (4137002). Barker shows a first pump system 10, 12, 13 for supplying coolant to a drill bit and a second pump 20, 22, 23, for supplying coolant at a pressure greater than the first system. O'Dell discusses removing blockages with his coolant flows. As stated at column 3, lines 40+, the coolant is supplied to a conventional drill bit having fluid passageways. Barker et al shows such a conventional bit. The bit has two cutting edges, two flutes, and two coolant channels 58, 60. It is noted that claim 1 merely recites that the supply channels are "passing through the drilling tool." Nothing in claim 1 states any particular length that these channels 58, 60, must be. Therefore, even though there is a common chamber 56, channels 58, 60, are "passing through the drilling tool." As seen from figures 2 and 3, the flutes 36, 38, have rounded side walls beginning at points 44, 46, and having radii 76, 78, the rounded side wall blending into the cutting edges 80, 82. Note that the cross sections for figures 2 and 3 are taken at axially spaces along the tool, such that they disclose the limitations of claim 10. To see the feature of claim 11, note the plane 54 in figure 3. Points 44 and 46 represent the circumferentially rearward points of guide zones/trailing margins. It is considered to have been obvious to have placed the bit of Barker et al in the spindle of O'Dell as it is a conventional tool such as that mentioned at column 3 of O'Dell. Note that the channels 58, 60, of Barker et al will be "associated with" independent supplies of coolant from pumps 10 and 20, and that the pumps "are connected to the channels."

5. Claim 21 rejected under 35 U.S.C. 103(a) as being unpatentable over Wheetly. It is considered to have been obvious to have made Wheetly of whatever length necessary for the particular workpiece being machined.
6. Claims 5 and 18 are allowed. Regarding claim 5, it is noted that this is a combination claim between the drilling tool and a coolant lubricant supply device.
7. Claims 17, 19, 23, and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Applicant's arguments filed 3-21-08 have been fully considered but they are not persuasive. Regarding claim 13, MPEP 806.04(e) does not state that when a claim encompasses two or more species "it should be designated a generic claim." MPEP 806.04(e) states that such a claim may encompass two or more embodiments, but it does not say that such a claim must be designated as a generic claim. Claim 13 will not be deemed as generic. Regarding both Wheetly and Barker et al, it is noted that nothing in any of the claims require the two coolant channels to extend the full length of the bit. Regarding column 3, lines 40+ of O'Dell, one skilled in the art would instantly consider it to be obvious to use a bit such as Barker et al in the drill spindle.
9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning the content of this communication from the examiner should be directed to Daniel Howell, whose telephone number is 571-272-4478. The examiner's office hours are typically about 10 am until 6:30 pm, Monday through Friday. The examiner's supervisor, David Bryant, may be reached at 571-272-4526.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office actions directly into the Group at FAX number to 571-273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify Examiner Daniel Howell of Art Unit 3726 at the top of your cover sheet.

/Daniel W. Howell/

Primary Examiner, Art Unit 3726